

Instructions for the Clean Water Act Section 401 Water Quality Certification Application San Diego Region

Contents of a complete application are specified in California Code of Regulations Title 23, Section 3856. These instructions are provided to assist you in providing all the information needed to consider your application complete. Where necessary, the applicant may attach additional sheets to provide detailed information. All sections of the application must be completed, or the application may be deemed incomplete. Responses should not refer reader to an attachment. Any responses by reference must indicate the specific document(s) and page number(s) (include copies of the entire document). Indicate by Not Applicable (NA) all sections that do not apply, along with an explanation of why the project is exempt from this section.

1. Applicant/Agent Information

- a. Provide the applicant's name, address, and contact information (person, phone number, fax, email).
 - i. If an LLC is applying, the parent company must be listed as a co-applicant and must provide the above information. If the parent company is not listed, the contact person (signature of the application) of the LLC will be held personally legally and financially responsible for all aspects of the 401 Water Quality Certification, if a certification is ultimately issued.
- b. If an authorized agent is to be used, provide the agent's name and title, address, and contact information (phone number, fax, and email).
 - i. The Statement of Authorization must be signed by the applicant, not the authorized agent.

2. Project/Activity Information

- a. Project Name or Title
 - i. Provide the name or title of the project.
- b. Location of Project
 - i. Provide the street address (if applicable), city, county, and assessor's parcel number(s).
 - ii. Provide the hydrologic unit, area, and subarea in which the project is located.
 - iii. Provide the latitude and longitude of the project.
 - 1. A minimum of 2 readings per line of the project site are required.
 - 2. One reading from the center of the project site.
 - iv. Provide a GIS Shapefile of the project site.
 - v. Provide a map(s) showing the project location.
- c. Directions to Project Site
 - i. Provide directions to the project site.
- d. Ownership
 - i. If the project site is not owned by the applicant, provide the name(s), address(es), and phone number(s) for the property owner(s) as well as evidence that the applicant has the necessary approvals to construct the project at this location.
 - ii. If the applicant plans on selling all or a portion of the site after receiving the necessary approvals and/or prior to starting construction, provide the name(s), address(es), and phone number(s) of the future land owner(s).

- e. Affected Water Body(ies)
 - i. Provide a list all affected water body(ies).
 - 1. All receiving water body(ies) must be identified in the *Water Quality Control Plan, San Diego Basin* (Basin Plan). Any unnamed/unidentified waters must be extended to an identifiable tributary.
 - ii. Indicate whether the water body(ies) are considered isolated per SWANCC (Solid Waste Association of Northern Cook County) and/or Rapanos.
- f. Need for Project
 - i. Provide the need, reason, and purpose for the overall project.
- g. Description of Activity
 - i. Provide a full, technically accurate description of the entire activity and associated environmental impacts.
 - ii. Provide the estimated duration for major phases of the project.
 - iii. If reference is made to documents submitted with this application, provide the specific document title and page numbers.
 - iv. Do not refer reader to an attachment.
- h. Avoidance of Impacts
 - i. Provide a description of the efforts to avoid direct and indirect impacts to waters of the U.S.
 - ii. Do not refer reader to an attachment.
- i. Minimization of Impacts
 - i. Provide a description of the efforts to minimize direct and indirect impacts to waters of the U.S.
 - ii. Provide a description of the Low Impact Development (LID) strategies to be implemented.
 - iii. Do not refer reader to an attachment.
- j. Protection of Water Quality – Construction
 - i. Provide a description of the efforts to avoid and minimize impacts to water during project construction.
 - ii. Provide a discussion of erosion and sediment control measures, project scheduling, flow diversions, staging and material storage yards.
 - iii. Do not refer reader to an attachment.
- k. Protection of Water Quality – Post-Construction
 - i. Provide a description of the efforts to avoid and minimize impacts to water quality following project construction.
 - ii. Provide a description of each proposed land use (e.g., residential, street, commercial). Identify the expected pollutants, specific post-construction BMPs, their effectiveness with regards to the expected pollutants, maintenance requirements, and party(ies) responsible for maintenance.
 - 1. The applicant must submit proof with this application that the parties designated as responsible for BMP maintenance have accepted the maintenance responsibility and are aware of the maintenance requirements.
 - iii. Provide a detailed description of how the project will address post-construction changes in flow rates, velocities, and shear stresses.
 - iv. Provide a description of the Low Impact Development (LID) strategies to be implemented.

- v. Provide a figure showing the location and type of all post-construction BMPs.
- vi. Provide the latitude and longitude for each post-construction BMPs.
- vii. Do not refer reader to an attachment.

I. Protection of Water Quality – Impaired Water Body(ies)

- i. Indicate whether or not any of the water body(ies) within the project area, including impacted and preserved water body(ies), list as impaired on the Clean Water Act Section 303(d) list.
- ii. Indicate whether or not any of the water body(ies) within the project area are a tributary to a Clean Water Act Section 303(d) water body(ies).
- iii. Indicate whether or not any of the water body(ies) within the project area are subject of an adopted Total Maximum Daily Load (TMDL).
- iv. If yes, provide a detailed description of the actions that will be undertaken to ensure that the project does not contribute additional pollutants to the water body(ies). Include a discussion of the pollutants causing the impairment, potential sources of pollutants, and construction and post-construction BMPs.
- v. Do not refer reader to an attachment.

m. State or Federally Threatened or Endangered Species Impacted by This Project

- i. Indicate whether or not any threatened or endangered species are potentially impacted by this project.
 - 1. If yes, provide a list of the potentially impacted species (including common name).
- ii. Provide a copy of the Biological Assessment.
- iii. Do not refer reader to an attachment.

n. Fill and Dredge Information

Fill Information

- i. Indicate in ACRES and LINEAR FEET (channels, shorelines, riparian corridors, and other linear habitat) the proposed waters to be impacted, and identify the impact(s) as permanent and/or temporary for each water body type listed.
 - 1. For purposes of this application, fill is defined as “rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and any materials used to create any structure or infrastructure in waters of the U.S.”
 - 2. Whether “navigable” or not, the State and Regional Water Boards have jurisdiction over all waters of the state. This includes all wetlands, even those that do not fall under the jurisdiction of the U.S. Army Corps of Engineers. Whether navigable or not, an area is determined to be a wetland if it is delineated as such in accordance with the physical criteria (soils, vegetation, hydrology/line of ordinary high-water) included in current U.S. Army Corps of Engineers regulatory protocols.
- ii. Provide an explanation of how the waters will be impacted by the project.
 - 1. Provide a detailed description of the vegetated and unvegetated water body(ies) in an attachment. Include the plant community, type of water body (e.g., ephemeral, intermittent, perennial), designated beneficial uses, and a discussion of functions. Attach a copy of the completed wetland delineation to this application.
- iii. Provide the latitude and longitude of the proposed impacts.

1. A minimum of 2 readings per line of the impact area.
2. Provide GIS Shapefile of the impact area.

Dredge Information

- iv. Indicate whether or not the project involves dredging.
- v. If yes, provide a description of the dredging activity and specific location, cubic yards of material to be dredged, disposal location and necessary approvals, dewatering methods, stockpile location, best management practices, and reason for dredging.
 1. In addition to soil types, applicants must determine if dredged soils are contaminated. Provide chemical analysis if appropriate.

o. Delineation Information

- i. Indicate whether or not the delineation has been verified by the U.S. Army Corps of Engineers. If yes, provide the date of verification.
- ii. Indicate whether or not the delineation includes the Arid West Region supplement.
- iii. Provide the name, title, and affiliation of the person delineating the extent of waters of the U.S.
- iv. Provide the date(s) of the wetland delineation.
- v. Include a copy of the completed wetland delineation.

3. Other Licenses/Permits/Agreements

- a. Provide a list of all applicable federal, state, and local permits, licenses, and agreements that will be required for any construction, operation, maintenance, or other actions associated with the project.
 - i. Include permits from CDFG, ACOE (include permit number), RWQCB, California Coastal Commission, flood control agency, local planning agencies, etc. Include date of application and status (i.e., pending, approved) of each.
 - ii. Include the title of the agency, the agency contact, the name of the license/permit/agreement, the file number (if available), the date applied, and the status.
- b. Attach copies of all draft or final documents and copies of any federal, state and local permits, licenses, and agreements being sought.
- c. Indicate whether or not this project requires a Federal Energy Regulatory Commission (FERC) license or amendment to a FERC license.

4. Compensatory Mitigation

- a. Indicate whether or not compensatory mitigation is proposed.
- b. If yes, indicate in ACRES and LINEAR FEET (channels, shorelines, riparian corridors, and other linear habitat) the total quantity of waters of the United States proposed to be Established, Restored, Enhanced, or Preserved for purposes of providing Compensatory Mitigation.
 - i. Establishment is defined as the creation of vegetated or unvegetated waters of the U.S./State where the resource has never previously existed. Restoration is divided into two activities, re-establishment and rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the U.S./State previously existed. Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the U.S./State. Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the U.S./State. Preservation is defined as the

- acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the U.S./State.
- c. Provide how many acres or linear feet of mitigation area are considered waters of the U.S.
- d. Indicate the ownership of the mitigation area(s).
 - i. If the mitigation area(s) is not owned by the applicant, provide the name, address, and phone number of the land owner and evidence (e.g., agreements, contracts, etc.) that the applicant has the necessary approvals to implement mitigation at this location. If the land is to be purchased, provide the expected date that the purchase will be complete.
- e. Provide the location(s) of the compensatory mitigation, including the street address (if applicable), city, county, assessor's parcel number(s), and the hydrologic unit, area, and subarea in which the project is located. Provide the latitude and longitude of the compensatory mitigation.
 - i. A minimum of 2 readings per line of the mitigation area.
 - 1. One reading from the center of the mitigation area.
 - ii. Provide a GIS Shapefile of the mitigation area.
- f. For all mitigation areas, provide a draft mitigation plan that includes, but is not limited to, the information contained in Attachment 1.

Mitigation Bank/In-Lieu Fee Program (if applicable)

- g. Provide the name of the mitigation bank or in-lieu fee program.
- h. Provide the name of the mitigation bank or in-lieu fee program operator.
- i. Provide the office address and phone number of the operator.
- j. Provide the location of the mitigation bank or in-lieu fee program.
 - i. Include the latitude and longitude, city, and county.
- k. Provide the mitigation bank or in-lieu-fee program water body type(s).
- l. Provide the mitigation area (acres or linear) and cost (dollar).

5. California Environmental Quality Act (CEQA)

- a. Provide the document type and title.
- b. Provide the lead agency and contact information (name, address, and phone number).
- c. Provide the State Clearinghouse number.
- d. Indicate whether or not the document has been certified/approved, or if a Notice of Exemption has been filed.
 - i. If yes, provide a copy of the certification.
 - ii. If no, provide the expected approval date.
- e. Indicate whether or not the project is considered an "emergency" pursuant to CEQA.
- f. Provide a copy of the draft or final CEQA document with this application.
- g. The Regional Board is required to comply with CEQA before issuing a certification. Ample time must be provided to the certifying agency to properly review a final copy of valid CEQA documentation before certification can occur.
- h. Section 401 certification will not be granted without a certified CEQA document.
- i. Do not refer reader to an attachment.

6. Additional Information

- a. Briefly list and describe any projects carried out by the applicant in the last 5 years or planned for implementation in the next 5 years that are in any way related to the proposed activity or may impact the same receiving body of water.
- b. Include actual or estimated adverse impacts.

7. Application Fee

- a. A fee deposit of \$640.00 is required to be submitted with this application. Additional fees, based on the extent of impacts, may be due. A fee schedule and calculator can be found at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/
- b. State Pre-Certified Projects falling under the Army Corps of Engineers "Notification". Projects that require Notification only require a \$77 fee.
- c. Certification will not be issued until all fees are paid.

8. Signature

- a. The application must be signed by the applicant, not the agent.
- b. The applicant's signature must be accompanied by the applicant's printed name, title, and date.